

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOBEEY L. HENDERSON,

Plaintiff,

v.

Case No. 1:07-CV-326

PATRICIA CARUSO,

HON. GORDON J. QUIST

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

The Court has before it Plaintiff's objections to the report and recommendation dated May 31, 2007, in which Magistrate Judge Brenneman recommended that Plaintiff's complaint be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c) for failure to state a claim and that the Court decline to exercise supplemental jurisdiction over Plaintiff's state law claims. The magistrate judge concluded that Plaintiff's due process claim fails because Plaintiff lacks a liberty interest in prison vocational, rehabilitation, and educational programs based on the Fourteenth Amendment. He further held that Plaintiff's alleged claims under Title II of the Americans with Disabilities Act, the Rehabilitation Act, and the Education Amendments of 1972 under Title IX fail because Plaintiff failed to allege that he was a qualified person with a disability and that he was being excluded from a service, program, or activity of the state, nor did he allege facts demonstrating gender discrimination. After conducting a *de novo* review of the report and recommendation, the Court concludes that the report and recommendation should be adopted by the Court.

The Court has reviewed Plaintiff's objections and finds nothing therein to persuade it that the magistrate judge's report and recommendation was erroneous. That is, Plaintiff fails to cite any

basis to conclude that he has a liberty interest in educational programs and materials giving rise to a due process claim. In addition, he fails to allege facts supporting a claim under the Americans with Disabilities Act or the Rehabilitation Act. Finally, Plaintiff alleges no facts demonstrating gender discrimination. Therefore,

IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation issued May 31, 2007 (docket no. 6) is **APPROVED AND ADOPTED** as the Opinion of this Court.

IT IS FURTHER ORDERED that Plaintiff's complaint is **DISMISSED** pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c) for failure to state a claim. The Court declines to exercise supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367(c). This Court finds no good-faith basis for an appeal of this matter within 28 U.S.C. § 1915(a)(3).

This dismissal counts as a strike for purposes of 28 U.S.C. § 1915(g).

This case is **concluded**.

Dated: June 28, 2007

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE